



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/593,367

12/10/2007

Elan Ziv

34783

8862

67801

7590

12/28/2010

MARTIN D. MOYNIHAN d/b/a PRTSI, INC.

P.O. BOX 16446

ARLINGTON, VA 22215

EXAMINER

NELSON, KERI JESSICA

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

12/28/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/593,367	Applicant(s) ZIV, ELAN	
	Examiner KERI J. NELSON	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29,33,34 and 36-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29,33,34 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :6/29/2010, 7/6/2010, 7/20/2010, 7/29/2010, 8/4/2010, 8/10/2010, 8/17/2010, 9/16/2010, 10/21/2010, & 11/4/2010.

Art Unit: 3772

DETAILED ACTION

This Office action is based on the amendments filed October 25, 2010 for application 10/593,367. The information disclosure statements filed June 29, 2010; July 6, 2010; July 20, 2010; July 29, 2010; August 4, 2010; August 10, 2010; August 17, 2010; September 16, 2010; October 21, 2010; and November 4, 2010 have been considered by the examiner on December 21, 2010. Claims 9, 12, 29, 33, and 36 have been amended and claims 30-32 and 35 have been cancelled; claims 1-29, 33, 34, 37, and 38 are currently pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12, 16-18, 21, 23, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by James (US Patent Pub. 2002/0083949).

3. Regarding claim 12, James discloses an apparatus (1/101) for treating pelvic organ prolapse comprising a main body (11/111) adapted to provide pelvic organ support when inserted into a vagina and an anchoring body (14/15/114) removably affixed to the main body (Figs. 1-17; page 2, ¶ 32; pages 3-4, ¶ 45). It is noted that the term “removably” is a broad term in the manor in which it is recited in the claim and does not specifically impart any structure to

Art Unit: 3772

the device. Therefore, it has been interpreted as a recitation of the intended use of the claimed invention which must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the anchoring body of the apparatus taught by James is capable of being removed by force from the main body.

4. Regarding claims 16, 18, 23, and 27, James discloses that the apparatus is made from material having a modulus of elasticity (page 3, ¶ 36) such that it will be flexible and deformable at at least three points thereon in response to a force applied on it either while in the vagina or during removal.

5. Regarding claims 17 and 28, the apparatus taught by James is disposable.

6. Regarding claim 21, James discloses that the anchoring body may be ovoid (Figs. 2 & 9; page 3, ¶ 37).

7. Regarding claim 29, James discloses that the apparatus does not directly compress a urethra upon insertion (page 3, ¶ 34 & 41).

8. Claims 12, 13, 16-18, 20, 22-24, 27, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kaseki et al. (US Patent Pub. 2004/0084054).

9. Regarding claims 12 and 13, Kaseki discloses an apparatus (1/10) for treating pelvic organ prolapse comprising a main body (2/12) adapted to provide pelvic organ support when inserted into a vagina and an anchoring body (3/13) removably affixed to the main body, wherein the main body is non-planar, extending along three axes (Figs. 1-11 & 44; page 2, ¶ 57-59; page 5, ¶ 84 & 86). It is noted that the term “removably” is a broad term in the manor in which it is recited in the claim and does not specifically impart any structure to the device.

Art Unit: 3772

Therefore, it has been interpreted as a recitation of the intended use of the claimed invention which must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the anchoring body of the apparatus taught by Kaseki is capable of being removed by force from the main body.

10. Regarding claims 16, 18, 23, and 27, Kaseki discloses that the apparatus, including the main body, is adapted to be flexible such that a force applied to it will cause some degree of deformation at at least three points thereon (Fig. 44; page 3, ¶ 66-67).

11. Regarding claims 17 and 28, the apparatus taught by Kaseki is disposable.

12. Regarding claims 20 and 22, Kaseki discloses that the anchoring body may be ring shaped or multi-sided (Figs. 1-11 & 39-43).

13. Regarding claim 24, Kaseki discloses that the main body is non-planar, extending along three axes (Fig. 44).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 2, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over James as applied to claim 12 above, in view of Kaseki et al. (US Patent Pub. 2004/0084054, and in further view of Holt (US Patent 2,141,040).

Art Unit: 3772

16. Regarding claims 1, 2, and 11, James discloses that the main body is ring shaped and sized and shaped to apply appropriate pressure on lateral vaginal walls for treating pelvic organ prolapse, wherein the elastomeric characteristics of the ring shaped main body enables the main body to be flexible and foldable at at least three different points or along at least two axes, such that the main body elastically expands into a predefined shape upon placement within the vagina (page 3, ¶ 36 & 38). However, James fails to teach that the predefined shape is multi-planar and that the apparatus further comprises an applicator.

Kaseki discloses an apparatus (1/10) for treating pelvic organ prolapse comprising a main body (2/12) adapted to provide pelvic organ support when inserted into a vagina and an anchoring body (3/13) selectively affixed to the main body, wherein the main body is non-planar, extending along three axes (Figs. 1-11 & 44; page 2, ¶ 57-59; page 5, ¶ 84 & 86). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by James such that the main body is formed to have a multi-planar shape extending along three axes as taught by Kaseki for the purpose of more closely matching the natural curves a vagina to improve user comfort. However, the combination of James and Kaseki fails to teach that the apparatus further comprises an applicator.

Holt discloses an applicator (19+20) for enclosing a pessary for insertion into a vagina (Fig. 5; page 2, column 1, lines 5-15). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by the combination of James and Kaseki to include an applicator as taught by Holt since a novice user may feel more comfortable using an applicator to ensure the apparatus is properly placed within the vagina. Further, providing an applicator would improve sanitation since the user's hands do not need to come into contact with the interior portions of the vagina during insertion as evidenced by McKibben et al. (US Patent 4,356,817).

Art Unit: 3772

17. Regarding claim 7, James discloses that the apparatus is made from material having a modulus of elasticity (page 3, ¶ 36) such that it will be flexible in response to a force applied on it either while in the vagina or during removal.

18. Regarding claim 8, the apparatus taught by the combination of James / Kaseki / Holt is disposable.

19. Regarding claim 9, James discloses that the main body is adapted to not directly compress a urethra after insertion (page 3, ¶ 34 & 41).

20. Regarding claim 10, the combination of James / Kaseki / Holt discloses the invention substantially as claimed, as described above, and Kaseki further teaches that the main body may be provided with a varying degree of thickness, and therefore a varying degree of stiffness, along its length (page 3, ¶ 60). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by the combination of James / Kaseki / Holt to be provided with a varying degree of thickness / stiffness as further taught by Kaseki for the purpose of allowing easier deformation of the main body.

21. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over James as applied to claim 12 above, in view of Kaseki and Holt as applied to claim 1 above, and in further view of Davis (US Patent 4,307,716). The combination of James / Kaseki / Holt discloses the invention substantially as claimed as described above, but fails to teach that the apparatus further comprises a device displacer. Davis discloses a pessary comprises a string (26) to facilitate removal of the device (Figs. 1-2; column 2, lines 15-31). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by the combination of James / Kaseki / Holt to further include a removal string as taught by Davis for the purpose of making the apparatus easier for the user to remove.

22. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over James as applied to claim 12 above, in view of Kaseki and Holt as applied to claim 1 above, and in further view of Sheen (US Patent 2,580,133). The combination of James / Kaseki / Holt discloses the invention substantially as claimed, as described above, but fails to teach that the apparatus further comprises a soft external layer on at least a portion of the main body. Sheen discloses a pessary (P) comprising a ring shaped main body (13) having a soft external layer (10) made of sponge rubber (Figs. 2-3; column 1, line 52 – column 2, line 18) capable of enhancing comfort and preventing necrosis. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by the combination of James / Kaseki / Holt to include a soft external sponge rubber layer as taught by Sheen in order to enable the apparatus to press firmly against the vaginal walls without causing discomfort.

23. Claims 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over James or Kaseki as applied to claims 12 and 23 above, in view of Davis (US Patent 4,307,716). James and Kaseki each discloses the invention substantially as claimed as described above, but fails to teach that the apparatus further comprises a device displacer. Davis discloses a pessary comprises a string (26) to facilitate removal of the device (Figs. 1-2; column 2, lines 15-31). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by either James or Kaseki to further include a removal string as taught by Davis for the purpose of making the apparatus easier for the user to remove.

Art Unit: 3772

24. Claims 15 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over James or Kaseki as applied to claims 12 and 23 above, in view of Sheen (US Patent 2,580,133). James and Kaseki each discloses the invention substantially as claimed, as described above, but fails to teach that the apparatus further comprises a soft external layer on at least a portion of the main body. Sheen discloses a pessary (P) comprising a main body (13) having a soft external layer (10) made of sponge rubber (Figs. 2-3; column 1, line 52 – column 2, line 18) capable of preventing necrosis. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by either James or Kaseki to include a soft external sponge rubber layer as taught by Sheen in order to enable the apparatus to press firmly against the vaginal walls without causing discomfort.

25. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over James or Kaseki as applied to claim 12 above, in view of Hay (US Patent 2,146,574). James and Kaseki each discloses the invention substantially as claimed as described above, but fails to teach that the apparatus further comprises an applicator adapted for insertion of the apparatus. Hay discloses a pessary inserter to ensure the proper position of a pessary being used (page 1, column 2, line 52 – page 2, column 1, line 12). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the apparatus taught by either James or Kaseki to include an applicator as taught by Hay since a novice user may feel more comfortable using an applicator to ensure the apparatus is properly placed within the vagina. Further, providing an applicator would improve sanitation since the user's hands do not need to come into contact with the interior portions of the vagina during insertion as evidenced by McKibben et al. (US Patent 4,356,817).

Art Unit: 3772

26. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martelly et al. (US Patent 5,771,899) in view of Kurkjian (US Patent 2,432,768). Martelly discloses a method of treating pelvic organ prolapse comprising the steps of inserting an apparatus (20) having a first main body portion (22) and a second anchoring portion (24) into a vagina for treating pelvic organ prolapse, positioning the apparatus within the vagina such that the apparatus exhibits a non-planar configuration, anchoring the apparatus within the vagina using the second anchoring portion, and removing the apparatus from the vagina by reducing the profile of the apparatus (Figs. 1-3 & 7-8; column 2, lines 50-67; column 3, lines 1-18). However, Martelly fails to teach that the step of removing includes removing the second anchoring portion from the first main body portion to reduce the profile of the apparatus.

Kurkjian discloses a pessary (10) comprising a main body portion (11) and a detachable anchoring portion (9) (Figs. 1-3; column 1, lines 29-37; column 2, lines 18-23). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the apparatus used in the method taught by Martelly such that the second anchoring portion is removed from the first main body portion as taught by Kurkjian in order to further reduce the profile of the apparatus for easier insertion and removal. Further, it has been held that the separation of elements, where removability would be desirable, is a design consideration within the skill of the art. *In re Dulberg*, 283 F.2d 522, 129 USPQ 348 (CCPA 1961).

27. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martelly in view of Kurkjian as applied to claim 33 above, in view of Hay (US Patent 2,146,574). The combination of Martelly and Kurkjian discloses the method substantially as claimed as described above, but fails to teach that the step of inserting the apparatus is facilitated by using an applicator. Hay discloses using a pessary inserter to ensure the proper position of a pessary

Art Unit: 3772

being used (page 1, column 2, line 52 – page 2, column 1, line 12). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the method taught by the combination of Martelly and Kurkjian such that the apparatus includes an applicator as taught by Hay since a novice user may feel more comfortable using an applicator to ensure the apparatus is properly placed within the vagina. Further, providing an applicator would improve sanitation since the user's hands do not need to come into contact with the interior portions of the vagina during insertion as evidenced by McKibben et al. (US Patent 4,356,817).

28. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martelly in view of Kurkjian as applied to claim 33 above, in view of Davis (US Patent 4,307,716). The combination of Martelly and Kurkjian discloses the method substantially as claimed as described above, but fails to teach that the step of removing the apparatus is facilitated by a device displacer. Davis discloses a pessary comprises a string (26) to facilitate removal of the device (Figs. 1-2; column 2, lines 15-31). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the method taught by the combination of Martelly and Kurkjian such that the apparatus further includes a removal string as taught by Davis for the purpose of making the apparatus easier for the user to remove.

29. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martelly in view of Kurkjian as applied to claim 33 above, in view of Zunker (US Patent 6,808,485). The combination of Martelly and Kurkjian discloses the method substantially as claimed, as described above, but fails to expressly teach the step of disposing the apparatus. Zunker discloses a method of treating pelvic organ prolapse using an incontinence insert (100) and disposing of it after use (column 2, line 65 – column 3, line 7; column 7, lines 23-26). At the

Art Unit: 3772

time of the invention, it would have been obvious to one having ordinary skill in the art to modify the method taught by the combination of Martelly and Kurkjian to include the step of disposing the apparatus as taught by Zunker in order to maintain a sanitary living space.

30. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaseki et al. (US Patent Pub. 2004/0084054), Martelly et al. (US Patent 5,771,899), and in further view of Kurkjian (US Patent 2,432,768). Kaseki discloses a method of treating pelvic organ prolapse comprising the steps of inserting an apparatus (1/10) into a vagina for treating pelvic organ prolapse, positioning the apparatus within the vagina such that the apparatus exhibits a non-planar configuration, anchoring the apparatus within the vagina using an anchoring body (3/13), and removing the apparatus from the vagina (Figs. 1-11 & 44; pages 2-3, ¶ 57-60; page 5, ¶ 84 & 86). However, Kaseki fails to teach that the step of removing includes reducing the profile of the apparatus.

Martelly discloses a method of treating pelvic organ prolapse comprising the steps of inserting an apparatus (20) having a first main body portion (22) and a second anchoring portion (24) into a vagina for treating pelvic organ prolapse, positioning the apparatus within the vagina such that the apparatus exhibits a non-planar configuration, anchoring the apparatus within the vagina using the second anchoring portion, and removing the apparatus from the vagina by reducing the profile of the apparatus (Figs. 1-3 & 7-8; column 2, lines 50-67; column 3, lines 1-18). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the apparatus used in the method taught by Kaseki to be collapsible to reduce the profile of the apparatus as taught by Martelly in order to aid in the insertion and removal of the device. However, the combination of Kaseki and Martelly fails to teach that the step of

Art Unit: 3772

removing includes removing the second anchoring portion from the first main body portion to reduce the profile of the apparatus.

Kurkjian discloses a pessary (10) comprising a main body portion (11) and a detachable anchoring portion (9) (Figs. 1-3; column 1, lines 29-37; column 2, lines 18-23). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the apparatus used in the method taught by the combination of Kaseki and Martelly such that the second anchoring portion is removed from the first main body portion as taught by Kurkjian in order to further reduce the profile of the apparatus for easier insertion and removal. Further, it has been held that the separation of elements, where removability would be desirable, is a design consideration within the skill of the art. *In re Dulberg*, 283 F.2d 522, 129 USPQ 348 (CCPA 1961).

31. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaseki in view of Martelly and Kurkjian as applied to claim 33 above, and in further view of James (US Patent Pub. 2002/0083949). The combination of Kaseki / Martelly / Kurkjian discloses the method substantially as claimed, as described above, but fails to expressly teach that the step of positioning the apparatus does not apply direct pressure to a urethra. James discloses a method for treating pelvic organ prolapse by inserting an apparatus (1/101) for treating pelvic organ prolapse into a vagina and positioning the apparatus within the vagina such that the apparatus does not directly compress a urethra (Figs. 1-17; page 1, ¶ 8; page 2, ¶ 32; pages 3-4, ¶ 34, 41 & 45). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the method taught by the combination of Kaseki / Martelly / Kurkjian such that the apparatus does not apply direct pressure on the urethra as taught by James so as not cause discomfort to the user.

Response to Arguments

32. Applicant's arguments filed October 25, 2010 have been fully considered but they are not persuasive. In response to Applicant's argument that neither James nor Kaseki disclose an anchoring body which is removable from the main body, it is noted that the term "removably" is a broad term in the manner in which it is recited in the claims and does not specifically impart any structure to the device. Therefore, it has been interpreted as a recitation of the intended use of the claimed invention which must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the instant case, the anchoring body of the apparatuses taught by both James and Kaseki is capable of being removed by force from the main body. Further, it is noted that although Applicant alleges that the connection between the anchoring portion and the main body portion of the device taught by Kaseki is permanent, the examiner was unable to find support for the permanent adhesive securement in the cited paragraph [0068].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3772

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KERI J. NELSON whose telephone number is 571-270-3821. The examiner can normally be reached on Monday - Thursday, 9am-4pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KJN
/KERI J. NELSON/
Examiner, Art Unit 3772
12/21/2010

/Justine R Yu/
Supervisory Patent Examiner, Art Unit 3771

Application/Control Number: 10/593,367

Page 15

Art Unit: 3772